

REMARKS

THE CLAIM REJECTION UNDER 35 USC § 103

Applicants disagree with the rejections, but to further the prosecution of the application, they have amended the claims.

Claims 9, 22 and 24 are amended to specify the group VIIB metal as rhenium or manganese, and the group VIII metal or hydro-dehydrogenating metal as cobalt or nickel. New claims 27 and, dependent from claims 22 and 23, respectively, require the presence of rhenium and nickel and that phosphorus is deposited on the matrix.

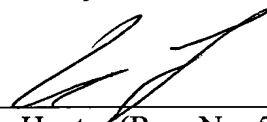
The Declaration submitted on October 2, 2003, establishes unexpected results for a catalyst containing both Rhenium and Phosphorus compared to a catalyst that contains only either Rhenium or Phosphorus. The catalysts containing either Phosphorus or Rhenium have similar activities, i.e., 1 and 1.17 relative activities, respectively, while the catalyst containing both promoters more than doubles in activity over either catalyst containing only one of the promoters, i.e., 2.79 relative activity. One of ordinary skill in the art would not have expected such an increase in activity, and therefore the use of both Rhenium and Phosphorus promoters would not have been obvious.

Claim 23 is amended to specify that the matrix does not containing zinc. Dependent claim 29, dependent from claim 22, also specifies the same. Support for the proviso can be found on page 9, wherein zinc is identified as one of the possible components of the matrix. Under *In re Johnson*, 194 USPQ 187 (CCPA 1977), a feature recited positively may be provisoed out of the claimed invention. Thus, the catalysts of Bjornson requiring the presence of zinc titanate, see column 1, lines 53-58, is excluded from claim 23 and its dependent claims. No teaching or suggestion is made in any of the references that the zinc titanate component of the Bjornson reference may be excluded.

Reconsideration is respectfully requested.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



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